



# Appeals Procedures

## *Sales and Use Taxes and Special Taxes*

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### Who should read this publication?

This publication provides general information about appeals procedures for sales and use taxes and "special" taxes and fees (for example, fuel taxes, excise taxes, and environmental fees—see full list on page 16). For information on appeals of state-assessed property values or the timber yield tax, please contact the Board Proceedings Division (see page 15).

If you disagree with a decision of the staff of the Board of Equalization (Board) regarding your liability for taxes or fees, you can usually contest that decision by filing a timely appeal. While the majority of appeals are resolved after discussion with Board staff, some may proceed through a succession of steps to a hearing before the elected Members of the Board.

### Points To Remember

Although this publication discusses appeals procedures as a relatively straight succession of steps, please note that

- You may file an appeal at any time within the time limits allowed by law. You do not lose this right even if you initially agree with a Board decision and pay taxes or fees due or receive a partial refund.
- In some cases, an appeal can be referred back to a prior step. As a result, you may go through some of the steps in the appeals process more than once.
- You may seek settlement of certain liabilities and claims for which you have a pending appeal (see "Proposing a Settlement of a Disputed Tax or Fee Liability," beginning on page 11). Except as discussed later, your appeal will generally continue through the normal process while your settlement proposal is pending.

If you do appeal,

- You should carefully read all notices and letters sent by the Board. *Your appeal may be denied if you do not respond within stated time limits.* If a filing deadline occurs on a Saturday, Sunday, or state holiday, it is extended to the next business day. For purposes of determining whether you have met a required deadline for documents you mail, you will be regarded as filing the document on the date of the postmark. All time periods described in this pamphlet are *calendar*, not business, days.

You may want to pay the amount of the tax or fee due while your appeal is pending (see next page, "A Note About Interest") since interest charges accrue until a tax or fee liability is paid. If you do pay the tax or fee due while your appeal is pending, that payment is not interpreted as meaning that you agree with the amount you dispute in your appeal, but it will stop the accrual of interest. (You may wish to file a "protective" claim for refund when you make the payment to ensure that you do not allow the deadline for filing such a claim to pass. As with any claim for refund, a protective claim must include the specific grounds for your claim, that is, the reasons you think you overpaid the taxes or fees.)

### Make Sure You Have Complete and Current Information

Please note that there may be minor differences between the procedures for sales and use tax appeals and those applicable to special tax programs. In addition, other state agencies may be involved in the appeals process for those programs. If you wish to file an appeal and you have procedural questions, you should call the Board department or division that administers the

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specific tax or fee rather than rely solely on this publication (see phone numbers on pages 15-16). You may also wish to obtain a copy of the applicable law, regulations, or Board publication that applies to your specific tax or fee (see page 14 for ordering information). An excellent source for information is the Board's website at [www.boe.ca.gov](http://www.boe.ca.gov). You will find applicable laws and regulations as well as other helpful information.

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*You may contest all  
or part of the  
amount due as  
shown on the  
determination.*

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As with all laws and regulations, those governing appeals are subject to change. The procedures explained in this publication are current as of July 2004. To ensure that you have the most current information, please contact the Board office responsible for your tax or fee account. If there is a conflict between information in this pamphlet and the law or regulations, any decisions will be based on the controlling law and regulations.

#### ***A Note About Interest***

While an appeal is pending, interest accrues on the amount of taxes or fees due. To stop or limit the accrual of interest while your appeal is pending, for sales and use taxes and many of the other tax programs administered by the Board, you may wish to pay all or part of the taxes or fees due.

In making this decision, you should keep in mind that the interest rate the Board pays on refunds is significantly lower than the interest rate you must pay on amounts you owe the Board.

For example, for the period *January 1, 2004, through June 30, 2004*, the interest rate charged on unpaid taxes or fees is 8 percent per year, while the amount the Board pays on refunds is 1 percent per year. Interest rates may change every six months.

Note that for some tax programs (for example, motor vehicle fuel tax and insurance tax), payments are *always* applied to interest and penalty and applied to the tax or fee due only if all interest and penalty are paid.

If the Board grants a refund of an overpayment of tax or fee paid pursuant to a Board determination, it will pay interest on the amount of tax or fee refunded to you. However, the Board may *not* pay interest on excess amounts paid with a tax or fee return if it determines that the overpayment was intentional or careless.

Please refer to the law and regulations for the specific instructions and interest calculation methods that apply to your situation.

#### ***Gifts from Taxpayers***

Board employees will not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value from a person or entity that the Board employee knows or has reason to believe

- Has or is seeking to obtain contractual or other business or financial relations with the Board.
- Conducts business or other activities that are regulated or monitored by the Board under circumstances from which it reasonably could be substantiated the gift was intended to influence the employee in his or her official actions or was intended as a reward for any official action performed by the employee.

### **APPEALING A DETERMINATION OF TAXES OR FEES DUE**

Taxpayers most often file appeals as the result of a Board audit. If an audit finds that you have underpaid taxes or fees or if the Board otherwise determines you owe additional amounts, you will be sent a billing, called a Notice of Determination (determination) or a Notice of Jeopardy Determination. It will state the amount of tax, interest, and penalty due. If you do not agree with the amounts shown, you may appeal by filing a petition for redetermination (see next section), or you may pay the amount due and file a claim for refund (see page 8).

For more information about the audit process, you may wish to obtain a copy of Board publication 76, *Audits*.

## Petition for Redetermination

### Filing Deadline

Generally you will have 30 days from the mailing date of your Notice of Determination to file a petition for redetermination (petition). *Your petition will generally be denied if submitted after the filing deadline.*

If you miss the filing deadline, you may still appeal the liability, but you must do so by paying the liability and then filing a claim for refund (see "Filing a Claim for Refund" beginning on page 8).

*Note:* You must wait for the Notice of Determination to be issued before you file a petition. Petitions filed before the Notice of Determination is issued will not be considered timely.

For information on responding to a Notice of Jeopardy Determination, see "Application for Hearing Based on a Jeopardy Determination" on page 11.

### Content of Your Petition

Your petition, which can be in letter form, should include your tax or fee program account number, and must

- Be in writing.
- Identify the amount(s) you wish to contest. (You may contest all or part of the amount due as shown in the determination.)
- State the specific grounds or reasons for your belief that you do not owe the tax or fee.
- Be signed by you or your authorized representative.

If you wish, you may use the Board's form BOE-416, *Petition for Redetermination*, to file your petition. A copy of this form is included in this publication and on our website, [www.boe.ca.gov](http://www.boe.ca.gov).

**Hearing request.** If you would like to have a hearing before the Members of the Board,

you should include a request for a hearing in your petition. You should also indicate whether you would like to have an appeals conference to review your case (see "The Appeals Conference," below). While most petitions are resolved without an appeals conference or a subsequent Board hearing, requesting an appeals conference and a Board hearing at this point in the process helps preserve your appeal rights. However, even if you do not request an appeals conference, if you request a Board hearing, an appeals conference will usually be held first.

Mail your petition to the appropriate address:

*Petitions for sales and use taxes:*

Petitions Section, MIC:38  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0038

*Petitions for taxes and fees administered under the Property and Special Taxes Department:*

See page 16 for the appropriate address.

### Presenting Additional Records or Documents

After receiving your petition, Board staff will send you a letter confirming its receipt, and may ask you to provide evidence to support your position. Staff may also contact you later to examine additional information. You are entitled to amend your petition at any time prior to the date the Board makes a final decision on the matter.

### The Appeals Conference

If your dispute cannot be resolved by discussion with Board staff, you may request that the petition proceed to an appeals conference. The conference will be held by an Appeals Division attorney or auditor who has had no prior involvement with your case.

Board staff will notify you if your case is referred to the Appeals Division for an

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*When you file  
a petition,  
an appeals  
conference is one  
of your appeal  
rights.*

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*You may take  
certain steps to  
expedite your  
appeals  
conference.*

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appeals conference. At that time, you will be asked to provide updated address information and the name and address of your representative, if you have one.

You will also be asked to indicate your preference for the location of the appeals conference. Unless you have another preference, the appeals conference will be held in the Board district office that prepared your audit or, in the case of audits by the Property and Special Taxes Department, at the district office closest to your place of business.

***Appeals Conference Scheduling and Notification***

The Board Proceedings Division will send you a Notice of Appeals Conference, letting you know the date, time, and location set for the appeals conference. Included as part of the notice will be a Response to Notice of Conference form, and you will be asked to complete that form and return it within ten days of receipt of the Notice of Appeals Conference. If you have not yet submitted your arguments or supporting evidence, you should submit them with your response form.

If you do not appear at the conference, it will be held as scheduled and a Decision and Recommendation will be issued, based on all the relevant evidence submitted.

If you no longer wish to appear at an appeals conference, please indicate on your response form that you waive your appearance and request that the information you have already submitted serve as the basis for deciding your appeal. Waiving your appeals conference does not affect your right to have a hearing before the Members of the Board (but see “Avoiding a Delayed Decision” on page 5).

If there are a large number of pending cases when you file your appeal, it may be some time before your appeals conference can be held. However, you may contact the Board Proceedings Division and request a priority conference (see next column, “Expediting Your Appeal”).

**Recording your appeals conference.** The Board does not record appeals conferences. If you wish to record the conference (at your expense), be sure to check the appropriate box on the response form before returning it. If you do record the conference, whether electronically or by using a court reporter, you must be willing to provide a copy of the recording or transcript to the Appeals Division upon request.

***Expediting Your Appeal***

When you respond to the information request from Board staff at the time your case is referred to the Appeals Division, or in the Response to Notice of Conference form, you may indicate whether you would be willing to take certain steps to speed up the appeals process. Your appeal can be expedited if you agree to

- Attend an appeals conference at the Board’s Headquarters office in Sacramento.
- Attend a video conference from certain district offices.
- Participate in a telephone conference.

If you agree to one of these three types of conferences, the Board Proceedings Division will schedule the conference within 60 days of receipt of your request. (For a telephone conference, the Board will pay for the call.)

You may also arrange to appear in the district office at a future date on short notice.

***Conduct of the Appeals Conference***

The appeals conference is intended to be an informal review. Rules of evidence are not strictly followed. The purpose of the conference is for you to present all your evidence and arguments concerning the disputed matter that is the subject of your appeal to an Appeals Division attorney or auditor (conference holder) who has had no prior involvement with your dispute.

The Appeals Division conference holder will consider your arguments and any oral or written evidence you present. You should be sure to present all of the facts



supporting your appeal so that the Appeals Division conference holder may fully consider the law and regulations as they apply to those facts. A representative of the Board's audit staff will also be present to explain why staff believes the tax or fee is due. If you have additional arguments or supporting evidence that you have not previously submitted, you **must** do so no later than at the appeals conference. If you cannot submit your additional arguments or supporting evidence at the appeals conference, you may ask the conference holder for an extension. Otherwise, the conference holder will not be able to take such arguments or evidence into account in reaching a decision.

### ***Decision and Recommendation***

After the appeals conference, the Appeals Division representative will prepare a Decision and Recommendation containing an analysis, conclusion, and recommendation for the resolution of your case. It will be mailed to you along with a letter explaining your options for further action. If you believe the decision and recommendation contains a significant factual error, you should contact the Appeals Division immediately.

If both you and the Board staff agree with the Decision and Recommendation, the Board will issue a Notice of Redetermination, Statement of Account, Notice of Refund, or Denial of Claim based on the Decision and Recommendation, and your appeal will end.

If you do not agree with the Decision and Recommendation, you may have a hearing before the Members of the Board, which you must request in writing. If you wish such a hearing and have not already requested one in writing (for example, in your petition for redetermination), then you must make your written request within 30 days from the date of the letter from the Appeals Division that transmits the Decision and Recommendation to you. The Board department involved in your dispute (or other state agency or depart-

ment, if applicable) may also request a hearing if it disagrees with the Decision and Recommendation.

## **THE BOARD HEARING**

The Board of Equalization comprises five Members, and a quorum is three Members. That is, at least three members must be present and participating to conduct business as the Board. The Board hearing is an oral or written presentation before the Board that gives you the opportunity to present your position on unresolved issues remaining after your appeals conference. You may represent yourself at the hearing, or you may be represented by an attorney, an accountant, or any other person you choose.

Board hearings are held monthly in Sacramento and about quarterly in the Los Angeles area. Board hearings *may* also be held once per year in San Francisco and in San Diego. A number of hearings are scheduled for the same day.

### **Before the Hearing**

#### ***Avoiding a Delayed Decision***

The Board hearing is not designed to accommodate the presentation of new arguments or evidence not previously considered by the Appeals Division. Generally, if new evidence is presented at the hearing, the Board orders that the new evidence be presented to the Appeals Division for its review and recommendation. Consequently, to avoid delaying a decision on your appeal, you should submit all relevant evidence and arguments to the Appeals Division at or before your appeals conference.

#### ***Hearing Notification***

After receiving your hearing request, the Board Proceedings Division will send you and your representative an acknowledgment letter and related information. The letter will state the location planned for your Board hearing.

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*The Board hearing is not designed to accommodate the presentation of new arguments or evidence.*

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Approximately 60 days prior to the hearing date, the Board Proceedings Division staff will send you a Notice of Hearing, a response form, a copy of the Board's regulations governing hearings (Rules of Practice), and other information pertinent to your appeal. You will be asked to submit the response form within 15 days from the date of the notice. If you do not respond by the deadline, your case will be removed from the Board's agenda and submitted to the Members of the Board for decision based on the information in your case file.

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*Appeals staff will  
prepare a  
summary of the  
unresolved  
issues for the  
Board.*

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#### ***Requesting a Postponement***

As stated in your hearing notice, you may request that your Board hearing be postponed, provided you do so by the specified response deadline. One postponement may be granted only if you request the postponement by the date stated in the hearing notice, you provide sufficient justification, and the parties agree to a new hearing date. A request for postponement made *after* the date specified in the hearing notice will be granted, at the discretion of the Board, *only* upon a showing of extreme hardship and agreement of the parties.

*Note:* Postponements granted for a Board hearing scheduled *outside* Sacramento (such as a Board hearing in Culver City or San Diego) will generally be rescheduled to be held in Sacramento.

#### ***Contribution Disclosure Form***

State law (Government Code section 15626) prohibits a Board Member from participating in a Board proceeding if he or she has received a contribution of \$250 or more from a party to or a participant in a proceeding (or an agent of either), within the preceding 12 months. Board staff must inquire about and report on contributions made. To comply with this requirement, you will be sent disclosure forms approximately 45 days prior to the scheduled Board hearing.

#### ***Filing Briefs***

You have the option of filing briefs supporting your position. Board staff (or other state agencies, if applicable) may also file briefs. If you choose to file an opening brief, you must do so at least 45 days prior to the hearing. Your brief must contain a statement of the issue, a statement of facts, and a discussion of applicable legal points and authorities. If you file a reply brief in response to an opening brief filed by Board staff (or other state agency), you must submit it at least 30 days prior to the hearing date.

Generally, briefs cannot exceed 30 typed or handwritten, double-spaced, letter-size pages, printed on one side, in type no smaller than 12 characters per inch. Section 5075 of the Board's Rules of Practice (which is sent with your hearing notice) describes the precise form and content requirements for briefs, and includes more specific information on filing deadlines.

If you wish to file a brief, please send it to the Chief of the Board Proceedings Division (see page 15 for address).

Closing or post-hearing briefs are permitted only by order of the Board.

#### ***Staff Summary***

Prior to your hearing, the Appeals Division will prepare a summary of your case setting forth the remaining unresolved issues for the Board Members. You will be sent a copy about two weeks before the hearing. A copy is also sent to the Board department (and other state agency, if applicable) involved in your appeal.

#### ***Conduct of the Hearing***

At the hearing, the Chief of the Board Proceedings Division will call your name and will ask you, your representative (if you have one), and Board staff representatives to be seated in front of the Board Members. A representative from the Appeals Division will make brief introductory remarks. The Board Members will have a copy of the Decision and Recommendation you

received after the appeals conference as well as the summary of your case and any briefs filed by the parties for the Board hearing. The party that requested the hearing will be asked to present oral arguments on unresolved issues, generally being allowed ten minutes. The other party will be called upon to respond, and will also generally be given ten minutes. The party that requested the hearing will then generally be given five minutes rebuttal time.

### ***Hearings Are Informal***

Board hearings are brief, to the point, and informal. Legal or technical language is not required. You should give a clear, concise statement of your position. If facts are in dispute, you may bring witnesses to testify or use documents or other exhibits to help explain your position. As you plan your presentation, please keep in mind that you generally will be allowed ten minutes to present your case.

### ***Board Staff Will Advise the Members***

Board staff representatives will be present at the hearing to answer questions from the Board Members. The Board Members may ask you questions to clarify the issues in your case. With the approval or at the direction of the Board, the staff representatives may also ask you questions. The staff representative will explain staff's opinion regarding your positions, the value of evidence, or any other pertinent matters.

### ***A Record Is Made of All Hearings***

All Board hearings are recorded by a certified court reporter. However, unless someone else has already requested that the record be transcribed (such as Board staff) this record will be transcribed only at your request and at your expense. (As of January 2004, the rate is \$2.55 for each double-spaced typewritten page.) Transcript requests should be made in writing to the Chief of the Board Proceedings Division (see addresses page 15).

A request for a transcript made after the hearing will be honored if the request is

made within six months after the date of the Board's decision and if the same hearing reporter is available to make the transcription.

### ***The Board Decision***

At the close of the hearing, the Board Members may make an immediate decision or take the matter under submission for a decision at the end of that hearing day or for a decision at a later time. If the case is taken under submission, the Board may refer the matter to the Appeals Division staff for further review. After that review is completed, the Board Members will make a final decision. After the Board makes its decision, the Board Proceedings Division will send you an informal notice outlining the Board's action.

### ***Notice of Redetermination (or Refund)***

When the Board makes its decision on your case, you will be sent a Notice of Redetermination, Notice of Refund, or other appropriate notice within about 45 days from the date of the Board's decision.

The Notice of Redetermination, which will indicate whether the Board determined that you owe any tax, fees, penalty, or interest, will become final 30 days after it is issued unless you file a timely petition for rehearing. If a timely petition for rehearing is filed, the Notice of Redetermination will become final: (1) 30 days after the mailing of the official notice of Board action to deny the petition for rehearing; or (2) if the Board grants a rehearing, 30 days after the mailing of the official notice of the Board decision on the rehearing.

You must pay the amount the Board determines you owe even if you disagree with the Board's decision. However, once you pay, you may proceed to the next step of the appeals process, filing a claim for refund.

If you do not pay the amount due by the time the Notice of Redetermination becomes final, you will be charged an additional 10 percent penalty.

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***Board hearings are brief, to the point, and informal.***

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## FILING A CLAIM FOR REFUND

If you believe you have overpaid an amount and you wish to receive a refund of the overpaid amount, you must file a claim for refund with the Board. If you make payments because you did not file a petition for redetermination in a timely manner (see “Filing Deadline” on page 3) and you wish to protest an audit after the payments are made, you must file a claim for refund for each individual payment.

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*If you believe you  
have overpaid  
taxes or fees, you  
may file a claim for  
refund.*

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### **Form of Claim for Refund**

As discussed in the note below, you may be required to use a specific form if you are filing a claim for refund for diesel fuel or cigarette taxes.

Otherwise, you may submit a letter requesting a refund, or you may use the Board’s form BOE-101, *Claim for Refund or Credit*, to file your claim. A copy of this form is included in this publication and on our website, [www.boe.ca.gov](http://www.boe.ca.gov).

Your claim must be in writing and state all of the grounds or reasons you believe that you have made an overpayment. Your claim should specify the period for which you claim you overpaid the amount and the amount of the refund you are seeking.

If you have not already had an appeals conference regarding the amount in question, you may request one when you file your claim for refund, which may be granted at the Board’s discretion.

*Note: For the following programs, you may be required to file a specific claim form.*

**Cigarette and Tobacco Products Tax Law.** Distributors of cigarette stamps under the Cigarette and Tobacco Products Tax Law must use forms prescribed by the Board. Contact the Board’s Excise Taxes Division (see page 16).

**Diesel Fuel Tax Law.** Diesel fuel users, exporters, sellers (who sell diesel fuel to the U.S. Government and to train operators), and ultimate vendors (vendors who make diesel fuel sales to farmers and exempt bus opera-

tors) must use forms prescribed by the Board. Contact the Board’s Fuel Taxes Division for more information (see page 16).

### **Where to mail your signed claim**

■ Claims for sales and use taxes  
Audit Determination and Refund Section,  
MIC:39  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0039

■ Claims for taxes and fees administered under the Property and Special Taxes Department

Please see page 16 for the appropriate address.

### **Filing Period Limitations**

The time period for filing a claim for refund will vary depending on a number of factors. The time periods for sales and use tax claims are given below. For all other claims, please check the appropriate laws and regulations for the specific tax or fee for which you are filing a claim.

*Filing period limitations—sales and use taxes.* A claim for refund must be filed within the latest of the following periods:

- Three years from the due date of the return for the period for which the overpayment was made.
- Six months from the date of your overpayment.
- For a payment made pursuant to a determination, six months from the latter of the date the determination became final or the payment was made.

Also, if the Board collects an involuntary payment by the use of enforcement procedures such as levies or liens, a claim for refund will be timely if filed within three years of the date of the involuntary payment.

If you do not file your claim for refund within the specified time limit, **you will have no further recourse with the Board** to recover overpaid taxes or fees.

**Caution:** This description of claim filing



limitation periods is very general. Please use it only as a guideline and do not rely solely on it in filing a specific claim. For more specific information regarding filing time frames, please refer to the law governing the tax or fee for which you wish to file a claim for refund, or contact the Board unit responsible for your tax or fee account (see pages 15-16).

**Multiple payments and claims for one liability.** The Board will not take action on a claim for refund until you have paid the full tax or fee amount determined to be due. If you file a claim for refund of a partial payment, the Board will hold that claim until you have paid the entire tax or fee liability. You must file additional "protective" claims for refund for any subsequent payments until the tax or fee liability has been paid in full. Such protective claims must be filed within six months after the date of each subsequent payment. Otherwise, the claims for refund may fall outside the filing periods mandated by law.

*Note:* If a taxpayer has paid the full amount of the tax or fee at issue and then files a claim for refund of such payment, for sales and use tax liabilities and for liabilities under certain other tax programs, it is the Board's general policy to withhold collection of any interest or penalty remaining due. For further information on this policy and its application to your situation, you may contact the Taxpayers' Rights Advocate Office at 888-324-2798.

### ***Board Action on Your Claim***

Board staff will send you a letter acknowledging receipt of your claim for refund. Claims are generally reviewed in the order received. The review process may take several months, and during that process, you may be asked to submit additional information. Board staff will consider your claim, review any information you submit, and take one of the following actions:

- Approve your claim. You will be sent a refund warrant and a Notice of Refund (see next column).

- Recommend denial of your claim and notify you by an advance letter that explains the reasons for the recommendation.

If the Board accepts the staff's recommendation to deny your claim, you will be sent a Notice of Denial of Claim for Refund.

The Board may approve or deny all or part of your claim.

### ***If Your Refund Is Approved***

When a refund is \$50,000 or less, the Board normally issues a Notice of Refund and a warrant for the refund amount within four to eight weeks after the decision is made. Refunds of more than \$50,000 may take longer to process because they generally must be approved by the Board Members. Staff must then determine whether you have an outstanding liability with the Board or any other state agency prior to issuing the refund. If you do owe taxes or fees to the state, the Board may be required to transfer enough of the refund amount to cover that liability.

*Note:* If the Board has not acted on your claim within six months of the filing date, you may be able to initiate a lawsuit to recover the amount of the overpayment (see next page, "Filing an Action in Court"). Please refer to the specific law that applies to the particular tax or fee in question, and consult with your legal counsel.

### ***Further Appeal Options***

If you disagree with the Board staff's recommendation to deny your claim for refund, you may request an appeals conference with an Appeals Division attorney or auditor. However, you generally will *not* be allowed a conference if the Board had already held a hearing and denied a petition for redetermination in which you raised the same issues addressed in your claim for refund.

### ***You May Request a Board Hearing***

If your dispute is not resolved by the appeals conference, you may request a hearing before the Members of the Board,

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*The Board will not take action on a claim for refund until you have paid the full amount of tax or fee due.*

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which may be granted at the Board's discretion. (A hearing on a claim for refund follows the same procedures as a hearing on a petition for redetermination, discussed on pages 5-7.) Generally, if your request for an appeals conference was denied, your request for a Board hearing will also be denied. If you wish to continue your appeal, you must take your case to court, as explained below.

#### ***Filing an Action in Court***

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*If the Board denies your claim, you may file a lawsuit to recover the amount you believe you have overpaid.*

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If the Board denies your claim for refund, you may file a lawsuit asking to recover the amount of your claim if you file your lawsuit within 90 days after the mailing of the Board's Notice of Denial of Claim for Refund. If the Board does not act on your claim within six months after you file it, you may file a lawsuit asking to recover the amount of your claim any time thereafter. However, if the Board denies your claim more than six months after you filed it and you want to file a lawsuit seeking to recover the amount of your claim, you must do so within 90 days after the mailing of the Board's Notice of Denial of Claim for Refund. Normally, a lawsuit for refund of tax or fee is limited to the grounds identified in your claim for refund.

The filing location depends on the type of tax or fee involved. You should seek legal advice regarding whether to file a lawsuit and where it should be filed.

### **APPEALING A FINDING OF SUCCESSOR'S LIABILITY**

If a person who owes sales or use tax (or both), diesel fuel tax, motor vehicle fuel tax, use fuel tax, or oil spill response prevention fees sells you the business or stock of goods related to that tax or fee liability, you may be personally liable for those taxes, penalties, and interest, up to the amount of the purchase price. This is called successor's liability.

If Board staff determines that you are liable for successor's liability, you will be

mailed a Notice of Successor's Liability. You may contest the determination by filing a petition for redetermination of the liability. Your petition should be filed in the same manner and within the same time limits described in "Appealing a Determination of Taxes or Fees Due," beginning on page 2, and the same procedures for an appeals conference and Board hearing are applicable to a person who wishes to contest a Notice of Successor's Liability.

#### ***Notice of Reconsideration***

If, after reviewing your case, the Board determines that the successor's liability applies, you will be sent a Notice of Reconsideration, which becomes final in 30 days. No additional penalty applies if you do not pay the amount due within the 30-day time limit. However, you cannot take further steps to contest the liability until payment is made. After you have paid the amount due, you may file a Claim for Refund, as described under "Filing a Claim for Refund," beginning on page 8.

#### ***Statement of Account***

If, after reviewing your case, the Board determines that the successor's liability applies, you will be sent a Statement of Account, which becomes final in 30 days. No additional penalty applies if you do not pay the amount due within the 30-day time limit. However, you cannot take further steps to contest the liability until payment is made. After you have paid the amount due, you may file a claim for refund, as described under "Filing a Claim for Refund" beginning on page 8.

### **OTHER TYPES OF APPEALS**

#### ***Late Protests***

The Board sometimes accepts a "late protest," which is a petition for redetermination filed after the 30-day filing deadline. If your petition is accepted as a late protest, it will be reviewed in the same manner as any other petition. Unlike a petition for redetermination that is filed timely,

however, collection activities might not be delayed, and a finality penalty may apply.

### ***Application for Hearing Based on a Jeopardy Determination***

Under certain circumstances, the Board may serve a taxpayer with a “Jeopardy Determination,” which is a notice that tax is immediately due and payable. If you receive such a notice, you must pay the amount due, or file a petition for redetermination and deposit with the Board a prescribed amount for security (as specified on your notice). If you do not take one of these actions *within ten days of service of the notice*, you will be subject to an additional late penalty and interest and the Board will start collection actions on your account.

In addition to filing a petition for redetermination, you also have the right to apply for an administrative hearing if you wish to

- Establish that the determination is excessive.
- Establish that the sale of property that may be seized should be delayed pending the administrative hearing because the sale would result in irreparable injury.
- Request release of property.
- Request stay of collection.

*Note:* The administrative hearing will not consider whether the jeopardy determination was warranted.

You must file your application for a hearing within 30 days after the service of the Notice of Jeopardy Determination. Your request will be referred to the Appeals Division, and your case will follow the process described under “The Appeals Conference” beginning on page 3.

*Please also note:* Filing an action for an administrative hearing will not keep the Board from pursuing collection action. Unless you pay the amount due or file a petition for redetermination and pay an amount for security (as noted above), the Board will continue to pursue collection of your tax or fee liability.

## PROPOSING A SETTLEMENT OF A DISPUTED TAX OR FEE LIABILITY

While you are pursuing an appeal on a petition for redetermination (including an accepted late protest) or a claim for refund, you may be able to propose a settlement of your case. In order to settle your case, you must reach a formal agreement with the Board’s settlement staff *and* that agreement must be approved by the Members of the Board or, for small settlements, by Board management.

*Note:* The Members of the Board may not participate in any way in the settlement process, except in the approval or denial of the agreement, as explained below. Thus, you should **not** attempt to contact a Board Member to discuss your settlement proposal. Such contact will jeopardize settlement of your case.

*Important Reminder:* While your request for settlement is pending, you must continue to meet all applicable time deadlines for your petition or claim.

The procedures described in this section apply to the settlement of sales and use tax liabilities. Settlement procedures for special taxes and fees are generally the same. However, please note that some special tax disputes, including certain Hazardous Substances Tax Law disputes, are settled through other state agencies.

Also, please note that the settlement procedures outlined in the following sections currently do not apply to appeals or claims filed for the motor vehicle fuel tax or insurance tax.

### ***Settlement Proposal***

To start the settlement process, you must first submit a written request describing your settlement proposal. You may send a letter or use form BOE-393, *Settlement Proposal for Sales and Use Tax Cases and Special Taxes and Fee Cases*. A copy of this form is included in the publication and on our website, [www.boe.ca.gov](http://www.boe.ca.gov).

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*While your appeal is pending, you may be able to propose a settlement of your case.*

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*If your settlement proposal is not approved, your appeal will continue through the normal appeals process.*

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Your settlement proposal must include

- Your name, current address, and daytime telephone number.
- If applicable, the name, address, fax and telephone number of your representative, as well as a copy of your representative's power of attorney.
- Your taxpayer account number (for example, your seller's permit number).
- The type of tax or fee involved (for example, "sales and use tax" or "diesel fuel tax").
- Your good faith settlement offer, including the factual and legal grounds in support of your offer.

Send your offer to

Settlement and Administration Division  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0087

*Please note:* To be considered for settlement, your settlement proposal must be submitted *at least 45 days before* the date first scheduled for a hearing of your case before the Board Members.

#### ***Consideration of Settlement Proposal***

Settlement staff will review your proposal and advise you or your representative whether your case will be accepted into the settlement program. If settlement staff determines that there is a genuine factual or legal dispute, your case will generally be accepted for consideration. However, settlement is discretionary. A case may be rejected for a variety of reasons. For example, if settlement staff determines that you have not provided sufficient facts or that the Board's case has little litigation risk, your case will not likely be accepted for settlement consideration.

If your case is accepted for consideration, the amount for which you offer to settle may or may not be accepted, and settlement staff may negotiate with you or your representative to settle your case for a different amount.

#### ***Approval of Proposed Settlement***

If you and the Board's settlement staff reach agreement on a settlement amount, you will be sent a confirmation letter and a Settlement Agreement (a legal document containing the settlement terms and conditions). After you sign, date, and return the Agreement, it will be forwarded for approval to Board management. Larger cases are then forwarded to the Attorney General, who has 30 days to review and comment on the proposed settlement. The proposed Settlement Agreement and the Attorney General's comments are then submitted to the Members of the Board for approval.

The Board has 45 days from the date of the Board meeting at which your proposed Settlement Agreement is submitted to approve or deny the proposed settlement. If the Board fails to act within 45 days, the recommendation to settle the case is deemed approved.

If your proposal is approved and you are required to make a payment, you are generally required to pay the full settlement amount within 30 days of approval.

*Note:* If you and Board settlement staff cannot reach an agreement, you may appeal to the Board's Assistant Chief Counsel, Settlement and Administration Division. If no agreement is reached as a result of that appeal, or if you choose not to appeal the action of Board settlement staff, the settlement process ends and your appeal will continue through the normal appeals process.

#### ***Board Member Approval or Denial Proposal Is Approved***

If the Board Members approve the proposed settlement and the reduction of tax in the settlement exceeds \$500, certain information about the settlement will become a matter of public record, which will be available for review for one year at the office of the Board's Executive Director.

The public record will include the following:

- The names of the taxpayers who are



- parties to the settlement.
- The total amount in dispute.
- The amount agreed to in the settlement.
- A summary of the reasons why the settlement is in the best interest of the State.
- When applicable, the Attorney General's conclusion regarding the reasonableness of the settlement.

*Please Note:* Information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure will not be included in the public record if its disclosure would adversely affect you. With the exception of the required public record, settlements are considered confidential information.

All settlements entered into under this program are final. They cannot be appealed unless one of the parties can show fraud or misrepresentation of a material fact.

### ***Proposal Is Denied***

If the Board Members deny the proposed settlement, the matter is remanded to settlement staff for further negotiation following the steps described above.

For more information or to submit a written settlement proposal, contact the Board's Settlement and Administration Division (see page 15). You may also wish to obtain a copy of our informational notice, form BOE-393-N, *Sales and Use Tax Settlement Program*.

## **OFFER IN COMPROMISE**

Unlike a standard appeal, an Offer in Compromise (OIC) is a proposal to pay the Board an amount that is less than the full amount of the tax or fee due on a closed account. The OIC program is for taxpayers or fee payers that do not have, and will not have in the foreseeable future, the income, assets, or means to pay their tax liability in full. You must satisfy all of the following criteria to qualify for the program:

- Have a final (eligible) tax or fee liability on a closed account.

- Are no longer associated with the business that incurred the liability (or with a similar or related business).
- Do not dispute the amount of tax or fee you owe.
- Cannot pay the full amount you owe in a reasonable amount of time.

If you wish to propose an OIC, you must complete an OIC application (form BOE-490 for individuals, form BOE-490-C for all others). To obtain a copy, visit our website, [www.boe.ca.gov](http://www.boe.ca.gov), or call our Information Center, 800-400-7115.

The completed application, along with the required supporting documentation (described in the application) must be submitted to the collector assigned to your account or directly to the OIC Section. If you have questions regarding the OIC process or would like to order publication 56, *Offers in Compromise*, please contact the OIC Section at 916-322-7931.

## **IF YOU FILE A BANKRUPTCY PETITION**

After the filing of a bankruptcy petition and while the automatic stay is in effect, the Board may continue to

- Perform an audit or reaudit,
- Make an assessment,
- Issue a notice of determination and demand for payment,
- Continue to investigate a tax liability,
- Recommend adjustments, and
- Hold an appeals conference or Board hearing.

The automatic stay prevents the Board from taking collection action.

While the automatic stay is in effect, the Board will

- Accept a petition for redetermination or claim for refund filed in a timely manner; and
- File a proof of claim in the bankruptcy case based on the best information available.

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*The usual  
appeals  
procedures apply  
if you file a  
bankruptcy  
petition.*

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## For More Information

### Hearing Procedure Regulations

You may wish to obtain a copy of the Board's regulations on petitions and hearing procedures, called the Rules of Practice, which consists of regulations 5010 through 5095 (Title 18, California Code of Regulations, sections 5010-5095). See "Publications" below for information on how to order a copy.

The Board will send you a copy of the portion of the Rules of Practice explaining the Board's general hearing procedures, regulations 5070 through 5087, when your request for a hearing is acknowledged by the Board Proceedings Division.

### Publications

To inform taxpayers about the law, the Board offers many free publications, some of which explain how the law and regulations apply to specific types of businesses. The Board also publishes copies of the law and regulations for each of the taxes and fees it administers.

A list of Board publications is found in publication 51, *Guide to Board of Equalization Services*.

To obtain Board forms and publications, or for answers to your general tax questions, go online to [www.boe.ca.gov](http://www.boe.ca.gov), or call the Board's Information Center: 800-400-7115 (TDD/TTY: 800-735-2929).

Information Center representatives are available Monday-Friday, 8-5 (Pacific time), except state holidays. Faxback and other automated services are available 24 hours a day.

### Internet

Address: [www.boe.ca.gov](http://www.boe.ca.gov)

### Tax Advice

If you have questions about the application of a specific rule or procedure to a tax or fee affecting you, please call or write the appropriate Board department for specific information.

For your protection it is best to get tax advice in writing. You may be relieved of tax and any interest or penalty otherwise due on a transaction or activity if the Board determines that you did not pay the tax or fee because you reasonably relied on written advice from the Board regarding the transaction or activity.

For this relief to apply, a request for advice must be in writing, identify the taxpayer or feepayer to whom the advice applies, and fully describe the facts and circumstances of the transaction or activity. Written tax advice is specific to individual taxpayers. You cannot obtain tax relief by relying on a written opinion given to another business, even if your transactions are similar.

*Please note:* While the Board will also provide you advice orally (for example, by telephone or in person), the law does not permit the Board to grant you relief from tax otherwise due (plus applicable interest and penalty) based on your reliance on oral advice. By getting advice in writing, there is no dispute as to exactly what you asked and how the Board responded, and you may then qualify for relief if you did not pay the tax or fee because you reasonably relied on that written advice.

For written advice regarding sales and use taxes, send your letter to:

## For More Information

### Headquarters Offices that May Be Involved in Your Appeal

#### 450 N Street, Sacramento

**Appeals Division, MIC:85**  
 State Board of Equalization  
 P.O. Box 942879  
 Sacramento, CA 94279-0085  
 916-324-2621 phone  
 916-324-2618 fax

**Petitions Section, MIC:38**  
 State Board of Equalization  
 P.O. Box 942879  
 Sacramento, CA 94279-0038  
 916-445-2259 phone  
 916-445-2249 fax

**Audit Determination and Refund Section, MIC:39**  
 State Board of Equalization  
 P.O. Box 942879  
 Sacramento, CA 94279-0039  
 916-445-1315 phone  
 916-445-2249 fax

**Board Proceedings Division, MIC:81**  
 State Board of Equalization  
 P.O. Box 942879  
 Sacramento, CA 94279-0081  
 916-322-2270 phone  
 916-324-3984 fax

**Settlement and Administration Division, MIC:87**  
 State Board of Equalization  
 P.O. Box 942879  
 Sacramento, CA 94279-0087  
 916-324-2836 phone  
 916-323-3387 fax

### Board Field Offices for Sales and Use Tax Accounts

City	Area Code	Number
Bakersfield	661	395-2880
Culver City	310	342-1000
El Centro	760	352-3431
Eureka	707	445-6500
Fresno	559	248-4219
Kearny Mesa	858	636-3191
Laguna Hills	949	461-5711
Long Beach	562	901-2483
Norwalk	562	466-1694
Oakland	510	622-4100
Rancho Mirage	760	346-8096
Redding	530	224-4729
Riverside	909	680-6400
Sacramento	916	227-6700
Salinas	831	443-3003
San Diego	619	525-4526
San Francisco	415	356-6600
San Jose	408	277-1231
San Marcos	760	510-5850
Santa Ana	714	558-4059
Santa Rosa	707	576-2100
Stockton	209	948-7720
Suisun City	707	428-2041
Van Nuys	818	904-2300
Ventura	805	677-2700
West Covina	626	480-7200

#### For Out-of-State Accounts

Chicago, IL	312	201-5300
Houston, TX	281	531-3450
New York, NY	212	697-4680
Sacramento, CA	916	227-6600

*Note:* The statements in this publication are general and are current as of the date on the cover. The law is complex and subject to change. If there is a conflict between this publication and the law, the law is controlling.

## For More Information

### Taxpayers' Rights Advocate Office

We want to make working with us as easy as possible. Consequently, we have appointed a Taxpayers' Rights Advocate to help you with problems you cannot resolve through normal channels.

If you have a question or concern about your case that has not been resolved, you are encouraged to contact this office. Even if you did not file a timely petition, collection action may be withheld while your case is in appeal, providing you pay the tax portion of your liability. For more information, you may contact:

Taxpayers' Rights Advocate Office,  
MIC:70  
State Board of Equalization  
P. O. Box 942879  
Sacramento, CA 94279-0070  
916-324-2798 phone  
888-324-2798 toll-free phone  
916-323-3319 fax

### Property and Special Taxes Department and Divisions

#### Property Taxes

**State-Assessed Properties, MIC:61**  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0061  
916-322-2323

**Private Railroad Car Tax, MIC:61**  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0061  
916-324-2745

**Timber Yield Tax, MIC:60**  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0060  
916-445-6964

### Special Taxes

**Environmental Fees Division, MIC:57**  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0057

916-323-9555 phone  
916-327-0859 fax

Activity Fee • Ballast Water Management Fee • Disposal Fee • Environmental Fee • Facility Fee and Tiered Permit Fees • Generator Fee • Hazardous Substances Tax • Occupational Lead Poisoning Prevention Fee

**Excise Taxes Division, MIC:56**  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0056

800-400-7115 phone  
916-323-9297 fax

Alcoholic Beverage Tax • Cigarette and Tobacco Product Tax • Emergency Telephone Users Surcharge • Energy Resources Surcharge • Insurance Tax • Integrated Waste Management Fee • Natural Gas Surcharge • Tire Recycling Fee

**Fuel Taxes Division, MIC:30**  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0030

916-322-9669 phone  
916-445-6385 fax

Aircraft Jet Fuel • Childhood Lead Poisoning Prevention Fee • Diesel Fuel Tax\* • Motor Vehicle Fuel Tax • Oil Spill Response, Prevention, and Administration Fees • Underground Storage Tank Maintenance Fee • Use Fuel Tax\* • Water Rights Fee

\* You may be paying these taxes under the International Fuel Tax Agreement (IFTA).



**PETITION FOR REDETERMINATION**

BUSINESS NAME	ACCOUNT NUMBER
TAXPAYER NAME	TYPE OF TAX OR FEE

**PETITION FOR REDETERMINATION**

Generally, the person against whom a determination is made may petition for redetermination within 30 days from the date of a *Notice of Determination* and 10 days from the date of a *Jeopardy Determination*. You should refer to the notice issued to you for the specific conditions and requirements for filing a petition. Anyone submitting a petition should be prepared, upon request, to submit documentary evidence to support the specific grounds upon which the petition is founded.

I am filing a petition for redetermination of the notice of determination dated \_\_\_\_\_ for the period \_\_\_\_\_ in the amount of \$ \_\_\_\_\_.

Please indicate below the specific grounds upon which the petition is founded:

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You have the right to an appeals conference and an oral hearing before the Members of the Board. Please indicate below whether you request an appeals conference, a Board hearing, or both.

- ☐ I request an appeals conference with a staff counsel or supervising tax auditor at the Board's nearest district office or in the Board's headquarters office in Sacramento.
- ☐ I request an oral hearing before the Members of the Board.

SIGNATURE 	DATE SIGNED
PRINTED NAME	TITLE/CAPACITY

*If there is a conflict between this form or the notice you received and the law, the law is controlling. The filing of a Petition for Redetermination does not protect your right to a refund of tax, interest, or penalty amounts paid in excess of amounts legally due. You must timely file a claim for refund if you believe you have overpaid tax, interest or penalty amounts.*

**CLAIM FOR REFUND OR CREDIT***(Instructions on back)*

NAME OF TAXPAYER(S) OR FEEPAAYER(S)

TAXPAYER'S OR FEEPAAYER'S ACCOUNT NO.

GENERAL PARTNER *(if applicable)*

TAXPAYER'S OR FEEPAAYER'S SOCIAL SECURITY NUMBER(S)\* OR FEDERAL EMPLOYER IDENTIFICATION NUMBER

Pursuant to

- ☐ Chapter 7, Article 1, of the California Sales and Use Tax Law and, where applicable, Uniform Local Sales and Use Tax Ordinances and the Transit District Transactions (Sales) and Use Tax Ordinances, or
- ☐ Chapter 6, Article 1, of the California Use Fuel Tax Law, or
- ☐ Chapter 8, Article 1 and 2, of the Diesel Fuel Tax Law,
- ☐ Other \_\_\_\_\_ *(please specify the applicable tax law or fee program)*

the undersigned hereby makes claim for refund or credit of \$ \_\_\_\_\_, or such other amounts as may be established, in tax, interest and penalty in connection with:

- ☐ Return(s) filed for the period \_\_\_\_\_ to \_\_\_\_\_
- ☐ Determination(s) dated \_\_\_\_\_ and paid \_\_\_\_\_
- ☐ Other *(describe fully)* \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

The overpayment described above was caused by \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

BUSINESS NAME

SIGNED BY

DATE SIGNED

PRINT NAME OF SIGNATORY

CONTACT PERSON *(if other than signatory)*

TITLE OR POSITION

TELEPHONE NUMBER

( )

TITLE OR POSITION OF CONTACT PERSON

TELEPHONE NUMBER

( )

- ☐ Credit interest is available under certain circumstances. If you would like to be considered for credit interest, please check here.

\*See form BOE-324-GEN, for the Privacy Act Statement regarding disclosure of the applicable Social Security Number.

**FOR BOARD USE ONLY**

Case ID No. \_\_\_\_\_

## INSTRUCTIONS FOR COMPLETING CLAIM FOR REFUND

When submitting a claim for refund, you must provide the specific grounds upon which the claim is founded. In addition to providing the specific grounds for the basis of the claim, the claim must also include documentation that supports the refund or credit request. The documentation should be sufficient in detail and provide proof of the overpayment.

Although the claim form asks for the amount of the claimed overpayment, including interest and penalty, if you are not sure of the actual amount at the time of submitting the claim, either enter \$1 in the space provided or leave that space empty. The support for the claim for refund will normally provide the means necessary for the calculation of the refund or credit due.

You must file the claim within the statute of limitations for the tax/fee program for which the claim is filed. The appropriate box should be checked to indicate the return filing period, the determination date or other time period. The period of time covered should be entered in the space provided (e.g., January 1, 2000 to December 31, 2002). If the claim results from the audit or other such determination, remember to provide the date shown on the notice of determination and the date the liability was paid. If the claim represents another type of overpayment, fully explain the circumstances in the space provided. If your claim represents a partial payment or installment payment on a determination or other liability, please submit a separate claim for each future payment for which you plan to file a claim for refund. (For more information concerning the refund and appeals process, see publication 17, *"Appeals Procedures: Sales and Use Taxes and Special Taxes."*)

You may file a claim for refund with any Board office. For a list of Board offices, please visit our website at [www.boe.ca.gov](http://www.boe.ca.gov) or call our Information Center at 800-400-7115.

**Taxpayer or Feepayer Name and Account Number:** The name(s) and account number as registered with the Board should be entered in the space provided. If the claimant is not registered with the Board, the name(s) shown on the documents that support the claim for refund should be entered. The dba (business name) should not be entered unless it is also the name as registered with the Board.

**Taxpayer's or Feepayer's Social Security Number/Federal Employer Identification Number:** Disclosure of the applicable Social Security Number(s) is required (see form BOE-324-GEN) even if the claimant is not registered with the Board as there are instances where a refund or portion thereof may be disclosed to the Internal Revenue Service. If the claimant is an individual or a husband and wife, the Social Security Number of the individual or both the husband and wife should be entered. If the claimant is a partnership, the Social Security Number(s) of the general partner(s) and the partner's name(s) should be entered in the space provided. If the claimant is a corporation (including a partnership consisting of corporations), the Federal Employer Identification Number must be provided.

**Business Name:** The name of the business should be entered in the space provided. For example, if the claimant name is John Doe and the business name (dba) is XYZ Auto Repair, XYZ Auto Repair should be entered.

**Signature and Title or Position:** The preparer of the claim form must sign his or her name in this space. The preparer may be the bookkeeper, accountant, taxpayer, etc. Even if the preparer is not registered with the Board, the preparer is generally not required to be a corporate officer or to have power of attorney. However, the preparer must be authorized by the tax or fee payer to file the claim on the taxpayer or feepayer's behalf. The preparer must also include his or her title or position in the space provided. For example, if the preparer is the bookkeeper, then he or she should enter "Bookkeeper" in the space provided.

**Date Signed:** The date the claim form is signed must be entered in the space provided.

**Contact Person (if other than signatory):** This line may be used to designate a person (other than the signatory) to contact, should the Board have questions or require additional information. Such persons may be employees, consultants, accountants, attorneys, etc., as designated by the claimant.

**Telephone Number:** Including the telephone number of the claimant (and contact person, if applicable) may save time in processing your claim for refund should a Board representative have questions about your claim.

The time period for filing a claim for refund will vary depending on a number of factors, particularly the cause of overpayment and the type of tax or fee program for which you are filing a claim for refund. Please check the appropriate laws and regulations for the specific tax or fee for which you are filing a claim.

You may also contact the Board unit or district office responsible for your tax or fee account. The expiration of the statute of limitations is established by the filing date of your claim for refund. The filing date of your claim is generally the date of mailing (postmark) or the date that you personally deliver your claim to your nearest Board office. This date may differ from the date signed.

**SETTLEMENT PROPOSAL FOR:  
SALES AND USE TAX AND SPECIAL TAXES AND FEE CASES**

Taxpayer/Feepayer: \_\_\_\_\_

Account No(s).: \_\_\_\_\_

I request that the tax or fee amount in question for the above account(s) established on

\_\_\_\_\_ for the  
(DATE OF NOTICE, BILLING OR REFUND CLAIM)period(s) \_\_\_\_\_ through \_\_\_\_\_ be considered  
(MONTH/DAY/YEAR) (MONTH/DAY/YEAR)

for settlement as follows:

Proposed Settlement Amount \$ \_\_\_\_\_

I believe this settlement offer is reasonable because: \_\_\_\_\_

I understand that all settlement offers are subject to review and that only those considered reasonable by the Board of Equalization's Settlement Section staff will be submitted to the Board of Equalization's executive management for approval.

Date: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
FIRM NAME\*\*By \_\_\_\_\_  
SIGNATURE\_\_\_\_\_  
TITLE\_\_\_\_\_  
DAYTIME TELEPHONE NUMBER**NOTE:**

The settlement program does not currently apply to motor vehicle fuel license tax disputes or to insurance tax disputes. Also, with the exception of disputes pertaining to the Childhood Lead Poisoning Prevention Fee and the Occupational Lead Poisoning Prevention Fee, disputes involving the Hazardous Substances Tax Law are administered by the Department of Toxic Substances Control.

\*\* The person signing this form, if not a corporate officer, partner or owner, certifies under penalty of perjury that he or she holds a power of attorney to execute this document, as evidenced by the attached "Power of Attorney" form.



**Basic Steps  
Sales and Use  
Taxes and  
Special Taxes  
Appeals**

## FILING A PETITION FOR REDETERMINATION OF AMOUNTS OWED

<i>Step</i>	<i>See page</i>
Taxpayer files petition for redetermination of taxes or fees	<b>3</b>
Jeopardy determination: taxpayer also files for administrative hearing	<b>11</b>
Appeals conference held	<b>3</b>
Board hearing held	<b>5</b>
Board makes decision and issues <i>Notice of Redetermination</i> or <i>Notice of Refund</i>	<b>7</b>
If taxpayer disagrees, taxpayer may file claim for refund after paying amount of tax or fee due	<b>8</b>

## FILING A CLAIM FOR REFUND OF AMOUNTS PAID

<i>Step</i>	<i>See page</i>
Taxpayer files claim for refund of taxes or fees paid	<b>8</b>
Board reviews claim	<b>9</b>
Appeals conference held (optional; held at Board's discretion)	<b>9</b>
Board hearing held (optional; held at Board's discretion)	<b>9</b>
Board issues Notice of Refund or letter denying claim	<b>9</b>
If taxpayer disagrees with denial, taxpayer may file court action for refund	<b>10</b>

## APPEALING A FINDING OF SUCCESSOR'S LIABILITY

<i>Step</i>	<i>See page</i>
Business's purchaser ("successor") files petition for redetermination	<b>10</b>
Board makes decision; issues <i>Statement of Account</i> if liability upheld	<b>10</b>
If successor disagrees, it may file claim for refund after paying amount of tax or fee due	<b>10</b>

## PROPOSING A SETTLEMENT OF A TAX OR FEE LIABILITY

<i>Step</i>	<i>See page</i>
Taxpayer submits written settlement proposal	<b>11</b>
Board staff reviews proposal	<b>13</b>
If proposal denied, taxpayer may appeal to Assistant Chief Counsel, Settlement and Administration Division (denied cases continue through the normal appeals process)	<b>12</b>
If initial/negotiated proposal accepted, taxpayer signs Settlement Agreement	<b>12</b>
Agreement forwarded to Board management for approval	<b>12</b>
Board approves or denies settlement	<b>12</b>